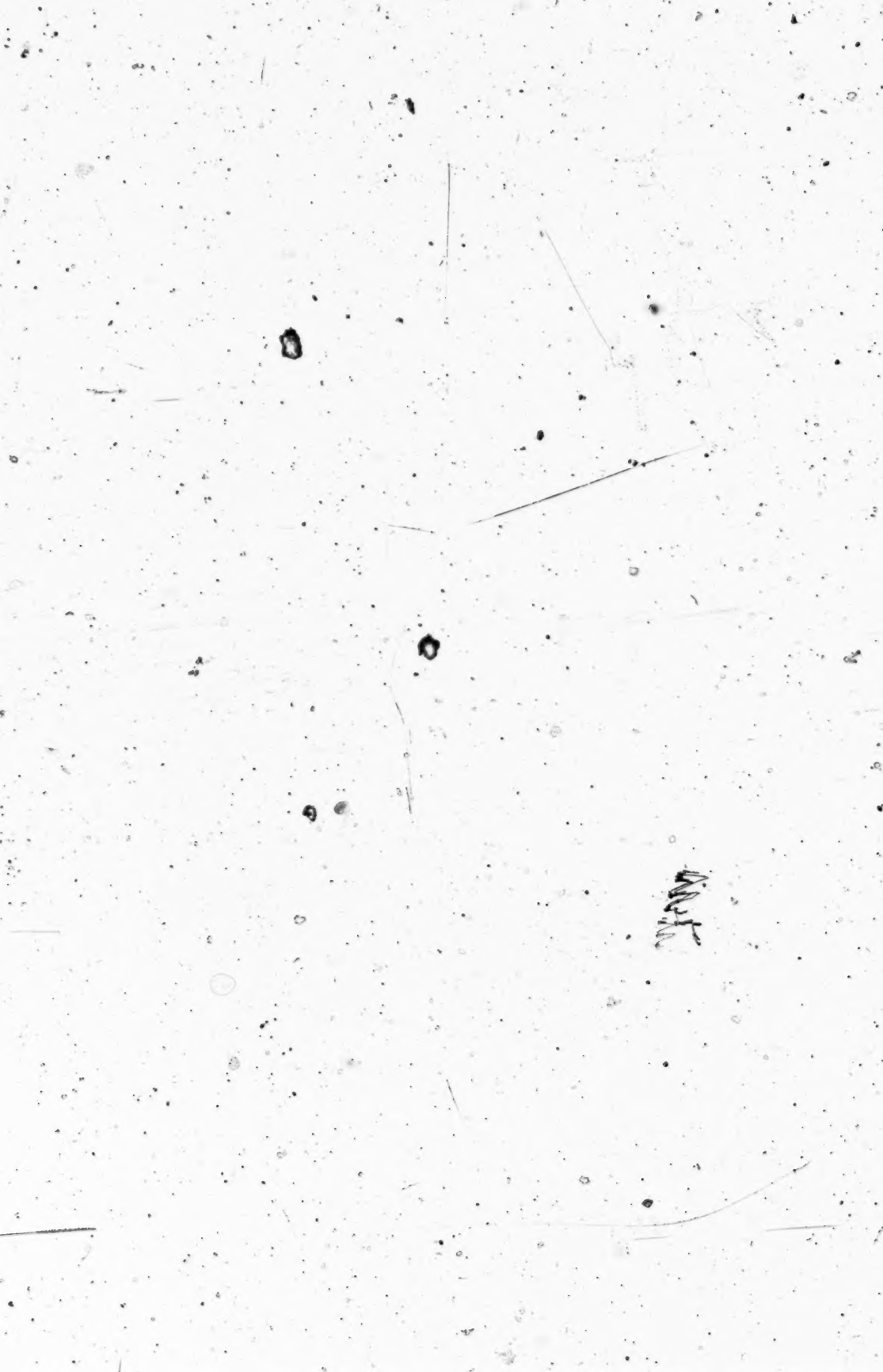

INDEX

	Page
Opinions below	2
Jurisdiction	2
Question presented	2
Statute involved	3
Statement	3
Reasons for granting the writ	4

CITATIONS

Cases:	
Group of Institutional Investors et al. v. *Chicago, Milwaukee, etc., R. R. Co.*, Nos. 875–883, present Term	3, 4
Reconstruction Finance Corporation v. *Western Pacific R. R. Corp. et al.*, pending on petition for certiorari, No. —, present Term	4
Statutes:	
Act of January 22, 1932, c. 8, 47 Stat. 5	1
Bankruptcy Act, Section 77	3

446408—42

In the Supreme Court of the United States

OCTOBER TERM, 1941

Nos. ——

RECONSTRUCTION FINANCE CORPORATION, PETITIONER

v.

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD COMPANY ET AL.

PETITION FOR WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

The Solicitor General, on behalf of Reconstruction Finance Corporation, a public corporation created by Act of Congress,[1] prays that writs of certiorari issue to review the decrees of the Circuit Court of Appeals for the Seventh Circuit rendered in this cause on December 4, 1941. The decrees reversed an order of the District Court for the Northern District of Illinois approving a plan of reorganization which had theretofore been approved and certified to the District Court by the Interstate Commerce Commission in pro-

[1] Act of January 22, 1932, c. 8, 47 Stat. 5.

ceedings for the reorganization of the debtor railroad.

OPINIONS BELOW

The initial report and order of the Interstate Commerce Commission (R. 1258–1283, 2153–2269) are reported in 239 I. C. C. 485, and its supplemental report and order (R. 1284–1347) are reported in 240 I. C. C. 257. The opinion of the District Court (R. 1857–1899) is reported in 36 F. Supp. 193. The opinion of the Circuit Court of Appeals (R. 2318–2324) and its memorandum on motion to modify the opinion (R. 2334–2335) are not yet reported.

JURISDICTION

The decrees of the Circuit Court of Appeals were entered December 4, 1941 (R. 2318–2324). The jurisdiction of this Court is invoked under Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925, and Section 24 (c) of the Bankruptcy Act.

QUESTION PRESENTED

Whether the findings and conclusions of the Interstate Commerce Commission are sufficient to support the allocation of the securities of the reorganized company among those found to be entitled to share therein, in the manner provided in the plan of reorganization approved by the Commission and the District Court.

STATUTE INVOLVED

Relevant portions of Section 77 of the Bankruptcy Act are set forth in the Appendix to the petition for writs of certiorari in *Group of Institutional Investors et al.* v. *Chicago, Milwaukee, etc. R. R. Co.*, Nos. 875–883, present Term, seeking review of the same decrees of which review is sought by this petition.

STATEMENT

The Chicago, Milwaukee, St. Paul and Pacific Railroad Company filed its petition for reorganization under Section 77 of the Bankruptcy Act on June 29, 1935 (R. 2). Plans of reorganization were filed with the District Court and with the Interstate Commerce Commission in accordance with Section 77 (d). Hearings before the Commission commenced August 5, 1935, and on June 4, 1940, a plan was certified by the Commission to the District Court (R. 1858–1859). The District Court approved this plan (R. 1978).

Reconstruction Finance Corporation holds secured promissory notes issued by the Debtor, the principal amounts of which aggregate as of August 1, 1941, the sum of $10,780,762.50. Reconstruction Finance Corporation was permitted to intervene in the court and Commission proceedings (R. 545) and has actively supported the plan which both the District Court and the Commission approved.

A petition for writs of certiorari to review the decrees of the Circuit Court of Appeals reversing the order approving the plan has been filed in *Group of Institutional Investors et al.* v. *Chicago, Milwaukee, etc., Railroad Company*, Nos. 875–883, present Term. The relevant facts are adequately stated in that petition and need not be repeated.[2]

REASONS FOR GRANTING THE WRIT

The plan of reorganization in this case was formulated by the Interstate Commerce Commission upon the same general principles and was accompanied by the same type of report as are involved in *Reconstruction Finance Corporation* v. *Western Pacific Railroad Corp. et al.*, in which a petition for a writ of certiorari is being filed contemporaneously with this petition. The District Court approved the plan but the court below reversed because it considered that the Commission had not made sufficient valuation findings in connection with the allocation of the new securities. The court held, however, that the Commission's findings were sufficient to justify the exclusion of the stockholders from participation in the plan.

The decision in the present case, insofar as it holds the Commission's findings to be inadequate,

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[2] It is respectfully requested that the certified transcript of record and additional printed copies which were filed with that petition may be deemed to accompany this petition within the meaning of Rule 38 and that reference may be made to them accordingly.

presents a question of large public importance for the reasons pointed out in our petition in the *Western Pacific* case; it should accordingly be reviewed by this Court.

Respectfully submitted.

CHARLES FAHY,
Solicitor General.

CLAUDE E. HAMILTON, JR.,
General Counsel, Reconstruction Finance Corporation.

FEBRUARY 1942.

U. S. GOVERNMENT PRINTING OFFICE: 1942